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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 IVAN RENE MOORE,
12 Plaintiff

13 v.

14 MICHELLE ROSENBLATT, et al.,
15 Defendants.
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Case No. 2:15-cv-8021-ODW (GJS)

**ORDER ACCEPTING FINDINGS
AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended
18 Complaint and all pleadings, motions, and other documents filed in this action, the
19 Report and Recommendation of United States Magistrate Judge (“Report”), and
20 Plaintiff’s Objections to the Report. Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed.
21 R. Civ. P. 72(b), the Court has conducted a de novo review of those portions of the
22 Report to which objections have been stated.

23 In response to the Report, Plaintiff filed his first status report on March 9,
24 2017, 86 days after the Magistrate Judge ordered Plaintiff to “file and serve a status
25 report every 30 days, keeping the Court apprised of his efforts to seek relief from the
26 automatic stay due to Bragg’s pending bankruptcy case.” [Dkt. 57 (“December 13,
27 2016 Order”).] While Plaintiff states in his Objections that he did not receive the
28 Court’s subsequent Order to Show Cause issued on January 18, 2017, he proffers no

1 reason for his failure to comply with the Court's December 13, 2016 Order, thereby
2 implicitly conceding that he chose to disregard it.

3 Compounding Plaintiff's disregard of a Court order, his belated status report
4 misleads the Court regarding the status of the automatic stay in this case. Plaintiff
5 represents that he sought relief from the automatic stay in this case on November
6 2016, and the bankruptcy court denied the request. [See Dkt. 66 ("Status Report") at
7 2:1-7, Ex. A.] However, the Court has taken judicial notice of the docket for
8 Defendant Bragg's pending bankruptcy action pursuant to Federal Rules of
9 Evidence 201. That docket shows that Plaintiff's relief from stay motion related
10 only to Los Angeles Superior Court Case Numbers BC 459449 and BC 480013.
11 [See *Kimberly Barbour v. Brad D. Krasnoff, et al.*, Case No. 2:16-bk-22878 (Bankr.
12 C.D. Cal. Sept. 28, 2016), Dkts. 14, 31.] There is no indication on the bankruptcy
13 court docket that Plaintiff has sought relief from the automatic stay in connection
14 with this case. Plaintiff's status report thus, raises concerns under Rule 11(b) of the
15 Federal Rules of Civil Procedure.

16 Plaintiff has repeatedly failed to advise the Court of salient facts regarding the
17 pending bankruptcy case in violation of the Court's orders. In addition, while
18 Plaintiff was granted leave to amend his claims against Defendant Bragg for a
19 second time [Dkt. 55], it is unlikely that Plaintiff can plead additional facts—
20 consistent with Rule 11(b) of the Federal Rules of Civil Procedure—to state a
21 cognizable civil rights claim under 42 U.S.C. §§ 1983, 1985(3) against Bragg.
22 Under these circumstances, dismissal is appropriate.

23 Accordingly, the Court accepts the findings and recommendations set forth in
24 the Report. Accordingly, **IT IS ORDERED** that:

25 (1) This action is dismissed under Federal Rule of Civil Procedure 41(b);

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1 (2) Judgment shall be entered dismissing this action without prejudice.

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3 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

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5 DATE: April 13, 2017



6 OTIS D. WRIGHT II
7 UNITED STATES DISTRICT JUDGE
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